

立法會
Legislative Council

Ref : CB2/SS/5/04

LC Paper No. CB(2) 288/05-06
(These minutes have been seen by
the Administration)

**Subcommittee on
Harmful Substances in Food (Amendment) Regulation 2005**

**Minutes of meeting
held on Tuesday, 25 October 2005 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Fred LI Wah-ming, JP (Chairman)
Hon CHAN Yuen-han, JP
Hon WONG Yung-kan, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP

Member absent : Hon Alan LEONG Kah-kit, SC

Public Officers : Attending : Mr Wallace LAU
Principal Assistant Secretary (Food & Environmental Hygiene) 1
Health, Welfare and Food Bureau

Mr Johnson TANG
Assistant Secretary (Food & Environmental Hygiene) 1
Health, Welfare and Food Bureau

Dr Thomas CHUNG
Assistant Director (Food Surveillance and Control)
Food and Environmental Hygiene Department

Dr HO Yuk-yin, Philip
Consultant (Community Medicine)
(Risk Assessment and Communication)
Food and Environmental Hygiene Department

Dr S F LEUNG
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Mr W S YIP
Senior Assistant Law Officer (Civil Law)
Department of Justice

Ms Grace LEUNG
Government Counsel
Department of Justice

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Miss Betty MA
Senior Council Secretary (2)1

Action

I. Election of Chairman

Mr Fred LI was elected Chairman of the Subcommittee.

II. Meeting with the Administration

[LC Paper Nos. CB(2) 129/05-06(01) & (02) and CB(2)130/05-06(01) & (02)]

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. The Administration briefed members on the background and reasons for making the Public Health and Municipal Services Ordinance (Cap. 132) Harmful Substances in Food (Amendment) Regulation 2005 and the implications on food safety if the amendment was revoked.
4. Members sought clarification from the Administration on the points and concerns as detailed in the Annex.

Action

5. In response to members, the Administration advised that, as far as they knew, malachite green was either banned or not permitted to be used in the Mainland, EU, USA, Canada, Japan, and South-east Asian countries such as Singapore and Thailand. The setting of zero tolerance was consistent with the international practice that animal carcinogen should not be added to food or food animal.

6. Ms Audrey EU and Miss CHAN Yuen-han said that they had no objection to the Amendment Regulation for the purpose of better safeguarding public health. Mr WONG Yung-kan said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong supported the Amendment Regulation. The Chairman said that Members belonging to the Democratic Party supported the Amendment Regulation and would not propose any amendments.

7. Mr Tommy CHEUNG expressed concern whether the proposed levels of penalty for non-compliance with the Amendment Regulation were proportionate to the gravity of the offences. Mr CHEUNG suggested that wholesalers and retailers who had obtained the fish from the registered/approved fish farms in the Mainland should not be subject to the offence and penalty provisions in the Harmful Substances in Food Regulations. He requested Assistant Legal Adviser 4 to advise at the next meeting whether amendments could be made to the Amendment Regulation or the principal Regulation.

ALA4

Admin

8. The Administration was requested to provide the number of investigations and prosecutions in respect of breaches of the Harmful Substances in Food Regulations.

9. Members agreed that to allow more time for the Subcommittee to study the Amendment Regulation, the Chairman would give notice to move a motion at the Council meeting on 9 November 2005 to extend the scrutiny period of the Amendment Regulation to 30 November 2005.

10. Members agreed to hold the next meeting on Tuesday, 8 November 2005 at 8:30 am.

11. There being no other business, the meeting ended at 12:40 pm.

**Proceedings of the meeting of the Subcommittee on
Harmful Substances in Food (Amendment) Regulation 2005**

**on Tuesday, 25 October 2005 at 10:45 am
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
0001-0309	Fred LI Audrey EU Vincent FANG	Election of Chairman	
0310 - 1032	Admin Chairman	Background to and enforcement of the Amendment Regulation, and implications of revoking the amendment	
1033 - 2118	Audrey EU Admin	<ul style="list-style-type: none"> - Rationale for setting the maximum concentration of malachite green in food in the Amendment Regulation at 0mg, and the overseas standards in this respect - Defence for contravening the Amendment Regulation - Assistance and compensation for the fish trade 	
2119 - 3406	Vincent FANG Admin Chairman	<ul style="list-style-type: none"> - Need for introducing the Amendment Regulation - Regulation of freshwater fish supply to Hong Kong at their sources - Enforceability of the Amendment Regulation 	

Time Marker	Speaker(s)	Subject(s)	Action required
		<ul style="list-style-type: none"> - Increasing the number of registered fish farms in the Mainland 	
3407 - 4718	CHAN Yuen-han Admin Chairman	<ul style="list-style-type: none"> - Impact of the Amendment Regulation on the fish retailers - Regulation of freshwater fish supply to Hong Kong at their sources - Enforcement of the Harmful Substances in Food Regulations 	
4719 - 011007	Tommy CHEUNG Chairman Admin	<ul style="list-style-type: none"> - Defence for contravening the Amendment Regulation - Regulation of freshwater fish supply to Hong Kong at their sources and suggestion to exempt retailers from the Amendment Regulation 	
011008 - 012549	WONG Yung-kan Chairman Admin	<ul style="list-style-type: none"> - Follow-up action on discovery of malachite green in imported fish from registered farms - Regulation of freshwater fish supply to Hong Kong at their sources and during consignment 	
012550 - 013337	Vincent FANG Admin Chairman	Enforcement of the Amendment Regulation and control of “smuggling” activities	Admin to provide investigation and prosecution figures on

Time Marker	Speaker(s)	Subject(s)	Action required
			breaches of the Regulations
013338 - 013954	Tommy CHEUNG ALA4 Chairman Admin	<ul style="list-style-type: none"> - Strict liability provisions in the relevant legislation and documents to be kept by fish traders - Levels of penalty to be proportionate to the gravity of the offence under the Amendment Regulation 	ALA to advise whether amendments could be made to the Amendment Regulation or the Principal Regulation (para. 6 of the minutes)
013955 - 014400	WONG Yung-kan Admin Chairman	Overseas practice for banning the use of malachite green in food	
014401 - 015145	Chairman Tommy CHEUNG WONG Yung-kan	Extension of the scrutiny period of the Amendment Regulation Date of next meeting	